

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>MORAN INDUSTRIES, INC.,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	
	)	<b>Case No. 10-CV-05959</b>
<b>TORQUE TECH, INC., and</b>	)	
<b>RONALD PATE,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

**ANSWER AND AFFIRMATIVE DEFENSES TO COUNTERCLAIM**

Plaintiff Moran Industries, Inc. (“Moran”) responds to the counterclaim of defendants Torque Tech, Inc. and Ronald Pate, as follows:

**ANSWER**

Moran denies the allegations of the counterclaim and states that defendants are not entitled to recover attorneys’ fees and costs under the Franchise Agreement, any applicable statute, or otherwise.

**AFFIRMATIVE DEFENSES**

1. Defendants’ counterclaims are barred by their continued willful and deliberate infringement of Moran’s Mr. Transmission Mark as set forth in Moran’s Complaint, the allegations of which are incorporated by reference.

2. Defendants’ counterclaims are barred by their continued willful and deliberate conduct that constitutes unfair competition in that their conduct is likely to deceive the public, to

cause confusion, or to cause mistake over the nature, characteristics, qualities, or geographic origin of defendants' goods, services, and commercial activities as set forth in Moran's Complaint, the allegations of which are incorporated by reference.

3. Defendants' counterclaims are barred by their prior material defaults under the Franchise Agreement as set forth in Moran's Complaint, the allegations of which are incorporated by reference.

4. Pate's counterclaims are barred by his prior material defaults under the Guaranty as set forth in Moran's Complaint, the allegations of which are incorporated by reference.

WHEREFORE, Moran demands judgment in its favor and against defendants on defendants' counterclaim, together with an award of its fees and costs incurred herein.

Dated this 27<sup>th</sup> day of October, 2010.

**MORAN INDUSTRIES, INC.**

By: s/ Fredric A. Cohen  
One of its Attorneys

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**CERTIFICATE OF SERVICE**

I certify that the foregoing *Answer and Affirmative Defenses to Counterclaim* were electronically filed and served on counsel of record via this court's ECF system on this 27<sup>th</sup> day of October 2010.

Dated: October 27, 2010

*s/Lu Han*  
Lu Han